

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MEI-FANG LISA ZHANG, et al.

Plaintiffs,

v.

WEI-MAN RAYMOND TSE, et al.

Defendants.

No. C 07-04946 JSW

**ORDER VACATING DEFAULT  
AND CONTINUING STAY OF  
ACTION AS TO DEFENDANT  
MOLLY LAU**

On October 30, 2007, this Court received a letter dated October 23, 2007, from Defendant, Private First Class Molly Lau ("PFC Lau"), in which she advised the Court that she is a member of the United States Army currently serving in an overseas tour in Korea and requested that the Court stay this action pursuant to the Servicemember's Civil Relief Act, 50 App. U.S.C. § 522. In that letter, PCL Lau stated that she is scheduled to remain in Korea until October 6, 2008.<sup>1</sup> No other responses have been received.

On January 2, 2008, the Court entered a 90 day stay as to PCF Lau and stated that if PFC Lau requested a further stay, she should submit a request pursuant to 50 App. U.S.C. § 522(d). PFC Lau has not filed such a request.

On February 11, 2008, Plaintiffs filed a request for default against a number of defendants, but did not include PFC Lau in that request. On April 11, 2008, at a case

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<sup>1</sup> Plaintiffs note that PFC Lau did not include a letter or other communication from her commanding officer with her request for a stay. *See* 50 App. U.S.C. § 522(b)(2)(B). PFC Lau, however, did submit a document setting forth her orders, which does not suggest that she would be authorized for military leave. In light of the Plaintiffs' lack of opposition to a 90 day stay, the Court did not deny the request to stay based on procedural defects.

1 management conference, the Court ordered the Clerk to enter default “against all defendants  
2 except Run Ping Zhou.” (Docket No. 59.)

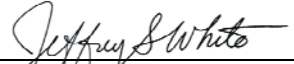
3 On June 16, 2008, Plaintiffs filed a request for default against PFC Lau, based in part  
4 upon the Court’s minute order of April 11, 2008, and in part because the 90 day stay has  
5 expired and PFC Lau has not entered an appearance. The Clerk entered default against PFC  
6 Lau on June 17, 2008. Because the Court was addressing the request for default filed on  
7 February 11, 2008, that Order was not intended to encompass PFC Lau and default should not  
8 have been entered on that basis.

9 Pursuant to 50 U.S.C. App. § 522(b), “at any stage before final judgment in a civil  
10 action at any stage before final judgment in a civil action or proceeding in which a  
11 servicemember described in subsection (a) is a party, the court may on its own motion and shall,  
12 upon application by the servicemember, stay the action for a period of not less than 90 days, if  
13 the conditions in paragraph (2) are met.” Once again, although PFC Lau did not include a letter  
14 or other communication from her commanding officer, she has submitted a letter stating that her  
15 service in Korea is expected to last until October 6, 2008. In addition, in Plaintiffs’ response to  
16 the Court’s Order to Show Cause as to why a stay should not be granted, Plaintiffs stated that  
17 they “have confirmed with a JAG officer at Camp Casey that PFC Lau is indeed a private first  
18 class in the United States Army stationed in South Korea.” (*See* Docket No. 31.)

19 Accordingly, the Court HEREBY ORDERS that the default be vacated, and the Court  
20 shall impose a further stay until November 7, 2008. *See* 50 U.S.C. App. 522(d). At that time, if  
21 PFC Lau has not entered an appearance *pro se* or through counsel, the Court shall lift the stay  
22 and shall appoint counsel to represent PFC Lau. *Id.* § 522(d)(2). Plaintiffs shall serve a copy of  
23 this Order on PFC Lau.

24 **IT IS SO ORDERED.**

25 Dated: June 18, 2008

26   
27 JEFFREY S. WHITE  
28 UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MEI-FANG LISA ZHANG et al,  
Plaintiff,

Case Number: CV07-04946 JSW

**CERTIFICATE OF SERVICE**

v.

WEI-MAN RAYMOND TSE et al,  
Defendant.

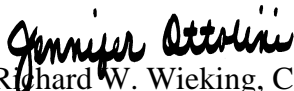
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 18, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Molly Lau  
Department of the Army  
A FSC, 70th BSB  
UNIT #15096  
Camp Casey, APO AP 96224

Run Ping Zhou  
South China Investment Inc.  
3567 Kimberly Road  
Cameron Park, CA 95682

Dated: June 18, 2008

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk